

# **EMPLOYEE PLANS FY 2005**

## **WORK PLAN**

### **Operating Priorities and Program Guidance**



**October 2004**

# TABLE OF CONTENTS

Topic	Page
Executive Summary.....	1
Section I. Operating Priorities	
Develop Education & Examination Strategies to Identify & Counter Abusive Tax Avoidance Transactions.....	4
Stabilize Determination Receipts Flow.....	6
Monitor Pension Funding.....	7
Refine Compliance Risk Assessment.....	8
Establish an Employee Plans Compliance Unit.....	10
Increase Retirement Plan Information on irs.gov and Restructure by Customer Segment.....	11
Section II. Program Guidance	
Customer Education and Outreach	
Overview.....	14
Performance Indicators. ....	15
Goals and Objectives ....	16
Customer Education Program.....	16
Outreach.....	16
Rulings & Agreements	
Overview.....	18
Determinations. ....	18
Goals and Objectives.....	20
Performance Measures.....	22
Voluntary Correction Program.....	22
Performance Measures.....	23
Opinion Letters/Rulings.....	24
Performance Measure.....	24
Technical and Procedural Guidance.....	25
Performance Measure.....	25
Examinations	
Overview.....	26
Goals and Objectives.....	26
Performance Measures.....	29

# FY 2005 Employee Plans Work Plan

## Executive Summary

The work plan provides program guidance and direction to all EP employees.

**Section I** provides the EP Operating Priorities that support the IRS's new Strategic Plan for FY2005-09. The Strategic Plan outlines three strategic goals that guide the future direction of the agency:

- Improve Taxpayer Service;
- Enhance Enforcement of the Tax Law; and
- Modernize the IRS through its People, Processes and Technology

In support of these goals, EP has committed to the following Operating Priorities:

- Develop Education and Examination Strategies to Identify and Counter Abusive Tax Avoidance Transactions
- Stabilize Determination Receipts Flow
- Monitor Pension Funding
- Refine Compliance Risk Assessment with Data from Examinations
- Create an Employee Plans Compliance Unit
- Increase Retirement Plan Information on IRS.Gov and Restructure by Customer Segment

EP is leading the way on enforcement of abusive tax transactions involving S-Corp ESOPs and 412(i) plans.

**Section II** provides the specific program priorities and goals/objectives for each of the three primary program areas: Customer Education & Outreach (CE&O), Rulings & Agreements and Examinations.

### Operating Priorities

A central theme in the FY 05 Work Plan is EP's focus on combating **abusive tax avoidance transactions** that involve retirement plans. EP is leading enforcement efforts on *S-Corporation ESOPs*, which shelter business profits without providing retirement benefits to rank-and-file employees, and *412(i) plans*, which involve plan investments in abusive insurance schemes. Examinations are underway in both areas, and EPCRS is not available to plan sponsors involved in these transactions. In addition, Issue Management Teams (IMTs), led by EP executives, have been formed with participants from other Operating Divisions, Counsel and Appeals. The IMTs coordinate specialized training classes, analyze issues from the examinations, and develop potential resolution strategies.

During FY 05, we will begin to see the results of our efforts to **stabilize the determination receipt flow**. Projections indicate that the new approach will significantly reduce the peak and valley effect of the past, and thus allow EP both to stabilize determination letter receipt flow and to maintain a consistent examination presence. Use of a staggered remedial amendment period and the combining of the Master & Prototype and Volume Submitter programs have been extensively coordinated with the practitioner community.

In the coming year EP will also address **pension funding** by sharing information with the other pension agencies, PBGC and DOL, to support early intervention and coordinated enforcement. EP Examinations will move toward completion of its **risk analysis** of compliance levels in various market segments, and thus enable **data from examinations** completed to improve productive case selection and targeting of examination resources. In addition, EP Examinations will begin to implement an **employee plans compliance unit** to improve audit coverage and by using less resource-intensive methods to monitor compliance. Finally, EP will improve and refocus its information on **IRS.GOV** so that appropriate information is available for several categories of EP customers.

## **FY2004 Accomplishments**

EP leadership is grateful for the support and **business results** of its talented and engaged workforce. During FY 2004, you closed 57,950 determination letter applications, examined 7,910 returns, issued 58 pieces of published guidance, helped to correct 1,131 plans through voluntary compliance, provided specific technical information to 3,627 customers and provided outreach and education to 145,659 customers. You achieved these great results despite some daunting challenges - FY 04 receipts for the Voluntary Correction Program increased by over 50% from prior year levels; funding waiver requests increased sevenfold in the last four years; and determination letter applications exceeded expectations by 67%.

Since you have performed so well, we are pleased that **Survey2004 results** indicated your satisfaction improved on most survey questions compared to Survey2003. The percentage of employees who expressed overall satisfaction with their jobs (4 or 5 on Q17) increased substantially from 72% to 77%. In addition, the EP participation rate increased to 73% compared to 70% during the prior year. The EP leadership team thanks all employees who took the time to take the survey. It is the best method for gauging the effectiveness of our actions and identifying opportunities for improvement.

Survey2004 is the best method we have for gauging the effectiveness of our actions and identifying opportunities for improvement.

The latest **Customer Satisfaction** reports (August 2004) for the period ending March 2004 reflect very positive ratings for both determinations and examinations. During this period, the overall score for examinations improved as did the percentage of satisfied customers; the percentage of dissatisfied customers remained steady. Several examination initiatives have been introduced such as including a bookmark and a flowchart with the initial appointment letter. The bookmark provides a review of the taxpayer's rights in an easy to understand format while the flowchart provides customers with an explanation of the examination process.

For determinations, the percentage of satisfied customers increased but the overall score and percentage of dissatisfied customers remained steady compared to the prior six-month report. Dissatisfied customers were most concerned with "time spent on issue" and "length of process", which may be attributed to the inventory build-up created by the GUST amendment workload and the resulting delay in issuing determination letters. The concerns should diminish as the "aged" pre-approved GUST cases are closed. In addition, a new Determination Resource Guide as been posted to the Internet to help customers understand the determination letter process. The reports for the six-month period reflected the following ratings:

- |  |
|--|
| <ul style="list-style-type: none"> <li>❑ <b>Determinations – 5.79 overall score</b> <ul style="list-style-type: none"> <li>▪ 71% of the customers rated their overall satisfaction at 6/7 (satisfied)</li> <li>▪ 7% indicated they were dissatisfied (a rating of a 1,2 or 3)</li> </ul> </li> </ul> |
| <ul style="list-style-type: none"> <li>❑ <b>Examinations – also a 5.85 overall score</b> <ul style="list-style-type: none"> <li>▪ 72% were satisfied with service received</li> <li>▪ 7% were dissatisfied</li> </ul> </li> </ul>  |

In March 2004, TE/GE launched an **Examination Redesign Team**. This effort reviewed the entire EP and EO examination process from the date of filing the return through examination closure. The objectives of the team were to: improve return selection, shorten the examination life cycle (from initial filing to case closure) and reduce customer burden, while preserving case quality. The team made a number of recommendations aimed at starting examinations as soon as possible after filing, improving inventory selection techniques, enhancing communication during the examination cycle, focusing on identified issues, and revamping case closing procedures.

There are several significant **information system improvement projects** that are underway that will impact EP employees in FY 05 and beyond:

EP is looking at new ways and new tools to improve how it interacts both with its customers and its employees.

➤ **WebETS** – this is a web-based, real time system that will replace the antiquated ETS time reporting system. Changes have been made to the activity and project codes to reduce the number of codes and to create consistency between functional areas.

➤ **TE/GE Determination System (TEDS)** – TEDS will provide critical business capabilities required by TE/GE customers and improve overall system performance and reliability. Release 1 provided for the imaging of all Form 5307 applications. The use of “business rules” currently results in up to 20% of these applications being closed without the necessity of technical screening. TEDS

Release 2 will extend TEDS capabilities to all applications for both EP and EO. Benefits of these releases include improved usability, timeliness and accuracy of determination cases, as well as simplified system access, integration and support.

➤ **TE/GE Reporting and Electronic Examination System (TREES)** – TREES will provide TE/GE with an automated examination case management system and consolidate multiple legacy systems. TREES will provide TE/GE tax computation tools and statutory compliance testing required by field personnel. The new system will eliminate many manual processing steps, maximize use of technology, use best practices and provide the foundation that supports a TE/GE examination process.

Because TREES is a TE/GE system, decisions affecting the project are made by TE/GE. In prior years, TE/GE was not always able to successfully influence the workcenter development efforts undertaken by other organizations on our behalf. At present, TREES is funded for FY 2005-2006.

The work plan is designed to be a point of reference for all the activities that will be going on in EP throughout the year. While there are parts of the work plan that don’t directly affect the day-to-day activities of each employee, it is important that all employees are aware of the program initiatives and operating priorities that are being implemented throughout the organization. The work plan can be found on the EP internet website [www.irs.gov/ep](http://www.irs.gov/ep) under “More Topics”.

## Section I. FY 2005 EP Operating Priorities

The three main goals of the IRS and EP:

- Service
- Enforcement
- Modernization

What will EP do to achieve these goals?

EP will focus on six Operating Priorities - read about them here.

Employee Plans shares the IRS's three strategic goals of:

- 1) Improving taxpayer service;
- 2) Enhancing enforcement of the tax law; and
- 3) Modernizing the IRS through its people, processes and technology.

To achieve these goals EP will focus on 6 Operating Priorities

- Develop Education and Examination Strategies to Identify and Counter Abusive Tax Avoidance Transactions
- Stabilize Determination Receipts Flow
- Monitor Pension Funding
- Refine Compliance Risk Assessment with Data from Examinations
- Create an Employee Plans Compliance Unit
- Increase Retirement Plan Information on IRS.Gov and Restructure by Customer Segment

### ❑ **Develop Education and Examination Strategies to Identify and Counter Abusive Tax Avoidance Transactions**

#### ▪ **Background**

Abusive tax avoidance transactions (ATAT) involving employee plans are growing. Certain transactions have been identified that take advantage of the tax-exempt status of retirement plans. Two examples of these include S Corporation ESOPs that violate IRC 409(p), and IRC 412(i) plans that take deductions for excessive insurance. Left unchallenged, transactions such as these undermine confidence in our voluntary tax system. TE/GE has a representative on the Servicewide Oversight Committee, which has responsibility for ensuring effective coordination between Operating Divisions.

#### ▪ **Website**

For a thorough discussion of the ATAT program, including newsletter articles, referral procedures, and a PowerPoint presentation, see the following web page and its associated links. In addition, [irs.gov](http://irs.gov) provides information regarding "listed transactions" involving retirement plans and technical guidance that has been issued in an effort to shut down transactions that are deemed to be abusive. Go to [www.irs.gov/ep](http://www.irs.gov/ep) and click on "EP Abusive Tax

Transaction" under "More Topics".

- **Lead EP Office**  
Director, Employee Plans
- **EP Office(s) With "Shared" Interest**  
CE&O  
Rulings & Agreements  
Examinations

- **Other Non-EP Offices**

SB/SE Lead Development Center for Tax Avoidance Transactions;  
TE/GE Tax Shelter Group;  
LMSB, and SB/SE.

- **Prior Strategies/Accomplishments**

During FY 04, substantive technical guidance was issued regarding abusive schemes involving S-Corp ESOPs, IRC 412(i) plans, accelerated 401(k) deductions, VEBAs, and Roth IRAs. Examination initiatives involving S-Corp ESOPs and IRC 412(i) plans were also started and will continue during FY 05. Training sessions were also conducted that informed agents how the abusive transactions work.

Issue Management Teams (IMTs) have been formed to address compliance issues and to develop strategies for resolving issues. The IMTs include representation from Chief Counsel and other Operating Divisions.

What is EP doing to combat abusive transactions?

- Examinations
- Outreach
- Employee Training

EP is also coordinating its efforts with the Small Business/Self-Employed Operating Division.

- **FY 2005 Strategies**

- Use IMTs to address the compliance issues involving S-Corp ESOPs and IRC 412(i) plans;
- Continue examining IRC 412(i) plans and S-Corp ESOPs, and coordinate with SB/SE and LMSB on issues that affect the plan sponsor's tax return;
- Develop resolution strategies to address and correct the abuses, and to ensure that they can be applied consistently on all cases;
- Develop additional enforcement strategies for these types of plans, including:
  - ✓ Identifying additional sources of information that will focus compliance resources effectively on the most abusive plans;
  - ✓ Examining these abusive plans;
  - ✓ Issuing internal guidance to help EP employees identify and develop issues involving these plans, and
  - ✓ Issuing external guidance to address abuses involving these plans.
- CE&O will:
  - ✓ Develop various outreach initiatives, and
  - ✓ Refine and update the Abusive Transaction information on the Retirement Plans web page ([www.irs.gov/ep](http://www.irs.gov/ep)) and the EP Intranet site.
- Examinations and/or Rulings and Agreements will:
  - ✓ Conduct training on abusive issues;
  - ✓ Train specialists to recognize and address tax avoidance transactions, and
  - ✓ Coordinate examination initiatives within TE/GE.
- Although efforts will be focused on upfront education to alert taxpayers of these transactions, examinations will also be used to identify promoters. These efforts will be coordinated with SB/SE and LMSB.
- Continue refining internal procedures to encourage front-line employee referrals of potential tax avoidance transactions.

## ❑ **Stabilize Determination Receipts Flow**

### ▪ **Background**

Determination letters provide plan sponsors with reliance that their employee retirement plans meets the qualification requirements under the tax code. Frequent changes in pension law have resulted in significant “spikes” of application receipts as plan sponsors meet deadlines for updating plan language. These “spikes” result in inventory backlogs and the need to shift resources between the Examination and Determination functions. The current determination letter process results in:

Frequent tax law changes have resulted in significant application receipts.

The new staggered approach to Determination Letter Applications should help even out the flow.

- Delays in issuing determination letters during periods of high receipts,
- Decreased customer satisfaction ratings,
- Increased training costs, and
- A reduced level of resources available for examinations and other programs.

- **Lead EP Office**  
Rulings & Agreements
- **EP Offices with “Shared” Interest**  
CE&O  
Examinations
- **Prior Strategies/Accomplishments**

Announcement 2004-32 provided an update on the redesign of the determination letter program. This redesign consists of a staggered remedial amendment period for individually designed plans and a six-year cycle for adopters of pre-approved plans. Individually-designed plans will submit for a determination letter every five years depending on their employer identification number. Pre-approved plans will have a six-year amendment cycle beginning with their EGTRRA filings. This staggered approach should minimize the peaks and valleys of determination receipts and improve resource planning.

In conjunction with Announcement 2004-32, the Service also issued Announcement 2004-33. This Announcement requested public comment on the staggered remedial amendment approach and a draft revenue procedure combining the Volume Submitter and Master & Prototype programs. The combination of the two programs should increase efficiency by scheduling review of similar plans (defined contribution/defined benefit) and by providing for one centralized management structure.

### ▪ **FY 2005 Strategies**

Comments on both Announcement 2004-32 and Announcement 2004-33 will be reviewed in the first quarter of the fiscal year. The final revenue procedure enacting the staggered remedial amendment approach is scheduled for issuance by March 1, 2005.

The final Revenue Procedure announcing the combination of the Master & Prototype and Volume Submitter programs is scheduled for issuance in the first quarter of FY 2005. This will allow for pre-approved defined contribution plans to begin their submissions by February 1, 2005. The opening date will mark the beginning of the new staggered remedial amendment approach.

## □ **Monitor Pension Funding**

### ▪ **Background**

Defined benefit pension plans are subject to minimum funding standards under the Code. During the 1990s, when the stock market was booming, the plans were well-funded and often no contribution was required by the minimum funding standards. With the stock market drop and the economic downturn in the past few years, many plans are underfunded and require substantial contributions to satisfy the minimum funding standards.

Low investment returns combined with an economic downturn have led to many underfunded defined benefit plans.

EP - with DOL and the PBGC - is monitoring this development.

#### ▪ **Lead EP Office**

Rulings & Agreements

#### ▪ **EP Office(s) With “Shared” Interest**

Exam Planning & Review

#### ▪ **Other Non-EP Offices**

PBGC and DOL

#### ▪ **Prior Strategies/Accomplishments**

Funding waiver requests were routinely handled because the annual volume of requests was not burdensome. Coordination with PBGC occurred on waivers involving waivers of \$1 million or greater. In addition, plan sponsors with funding deficiencies reported on Form 5500 were contacted to request an explanation and/or resolution of the funding deficiency.

### ▪ **FY 2005 Strategies**

The increased funding required for defined benefit plans raises concerns for companies and the Service. Funding waiver requests are up seven-fold from 2000; while other employers have gone out of business leaving underfunded plans in their wake. The PBGC is running a record deficit and the pension funding problems of corporate America regularly appear in news articles and magazines. In the face of these events, the Service needs to expand its scrutiny of which plans are complying with the minimum funding requirements. Consultation with the PBGC and DOL will be part of the process as we formulate our strategy to deal with pension funding issues.

The PBGC has an early warning system with respect to troubled companies that provides information substantially in advance of Form 5500. Consultation with the PBGC can provide information allowing for appropriate action at an earlier stage. We are undertaking a review of the information reported on Schedule B of Form 5500 to ensure that we are receiving information most useful to our regulatory and enforcement responsibilities. That, and our analysis of the Funding Deficiency table on RICS, will be shared with PBGC to provide a more complete picture of the defined benefit universe. We will coordinate with the DOL on enforcement action to compel compliance with the minimum funding standards.

## ❑ Refine Compliance Risk Assessment

### ▪ Background

During FY 01, each Operating Division started a Risk Assessment approach to analyze their customer population. EP divided its customer population into the major business segments listed in the instructions for the Form 5500. Each business segment was broken down into market segments based on plan types. Using RICS to analyze exam data over the past ten years, *Risk Assessment* (an estimate of the consequences if we do not perform examinations in a segment) and *Risk Reliability* ratings (a measure of how much we know) were assigned to each market segment.

What does the Risk Assessment approach provide?

- Better use of EP resources
- More productive exams
- Fewer exams of compliant plans

During FY 04, the program's assumptions and sample sizes were reassessed and the number of market segments was reduced from 205 to 79 in order to increase efficiency and timeliness of quality data collection. A significant number of the eliminations were in small market segments. Accordingly, analysis of all identified market segments should occur several years sooner than originally planned. Additionally, the number of plans scheduled for future audits will fall from over 16,000 to less than 6,800, while still maintaining the integrity of the audit results.

Current examinations are verifying the compliance levels of each market segment. Ultimately, the risk assessment will assist in focusing compliance and outreach activities on less compliant market segments.

The *Risk Assessment* process will:

- Improve the use of resources,
- Lead to more productive examinations,
- Increase employee satisfaction by assigning better quality cases, and
- Improve customer satisfaction by reducing examinations of compliant plans.

### ▪ Lead EP Office

Examination Planning & Programs (EP&P)

### ▪ EP Office(s) With "Shared" Interest

Exam Area Offices  
CE&O

### ▪ Other Non-EP Offices

TE/GE Office of Research & Analysis  
Department of Labor

### ▪ Prior Strategies/Accomplishments

Examination specialists will complete the casework and the analysis for seven of the market segments by the end of FY 04. Casework for another 10 market segments will be completed by the end of FY 04. Analysis on these 10 segments will be completed during FY 05. The following chart summarizes the status of the various market segments.

FY 2004		FY 2005	
Plan Type	Industry	Plan Type	Industry
Money Purchase	Construction	Defined Benefit	Construction
Profit Sharing	Manufacturing	Profit Sharing	Wholesale
Money Purchase	Manufacturing	410(k)	Wholesale
401(k)	Manufacturing	Defined Benefit	Retail
Money Purchase	Professional, Scientific & Technical	Money Purchase	Retail
Defined Benefit	Health Care & Social Assistance	Defined Benefit	Information
Money Purchase	Health Care & Social Assistance	Money Purchase	Finance & Insurance
		401(k)	Finance & Insurance
		Defined Benefit	Real Estate & Leasing
		Profit Sharing	Accommodations & Food Services

Each month, EP&P analyzes current exam data and works with Classification to ensure that returns from selected segments are being provided to Area Offices for examination.

▪ **FY 2005 Strategies**

Market segment results will be shared with Area Office employees. Sources include a detailed analysis of the CECA (Checksheet for EP Compliance Activities) checksheet data and actual case statistics.

Increased compliance:  
What can EP do  
achieve this goal?

Exam is an important  
piece of the solution.

For more pieces, keep  
reading to see what  
CE&O, Guidance,  
Rulings & Agreements  
and others are doing.

A sufficient number of exam returns will be assigned so that all of the remaining unexamined segments will be fully populated with sample returns by the end of FY 05. Analysis should be completed by the end of FY 06.

After analyzing the closed examination data, a determination will be made on the future direction of examination resources.

- For non-compliant market segments, appropriate follow-up programs (i.e. education, outreach, focused exams, etc.) will be identified and applied. Exam findings will be shared throughout EP. We will continue refining and updating the risk assessment design and long-term plan. As market segments are closed, the findings will be shared with CE&O for posting on the Retirement Plans web page ([www.irs.gov/ep](http://www.irs.gov/ep)).
- FY 06 selections and beyond will be made based on the long-term plan. This includes:
  - ✓ Completing examinations in those segments where a sufficient number of examinations has not been completed, and
  - ✓ Determining appropriate follow-up actions in noncompliant segments.
- A "limited issue" examination program has been initiated in select High Risk - High Reliability segments. These examination cases are reviewed before assignment. Limited pre-selected issues are addressed in the examination.

## ❑ **Establish an Employee Plans Compliance Unit (EPCU)**

### ▪ **Background**

Since FY 90, there has been a continuing decline in the level of audit coverage: the number of examinations initiated versus the number of customers in the employee plans universe. Many problems or questionable items can be resolved without the necessity of an examination of the books and records of the plan. Other issues can be resolved through a correspondence audit rather than a field office examination.

What is the new EPCU and what will it do?

- Devise better exam strategies
- Help field agents
- Design compliance checks

Learn more about EPCU on this page and the next.

### ▪ **Lead EP Office** Examinations

### ▪ **EP Office(s) With “Shared” Interest** Rulings and Agreements CE&O Ogden campus

### ▪ **Other Non-EP Offices** Department of Labor

### ▪ **Prior Strategies/Accomplishments** Many anticipated EPCU activities have been decentralized in the organization. Centralization in the EPCU will foster telephone and mail contact with taxpayers as opposed to an examination. This is called a “soft-contact” approach and is less burdensome to customers.

### ▪ **FY 2005 Strategies**

To increase the number of contacts that can be made on questionable issues, the new EPCU will undergo stand-up, including staffing of the unit. EPCU will be managed from Chicago. EPCU staffing will be de-centralized and should include statisticians, revenue agents, and para-professionals. The specific staffing needed, and their geographic location, has not yet been determined.

EPCU will do expert-level data analysis to determine appropriate examination strategies and ways to use existing resources. EPCU staff will also assist field agents in certain specialized examination categories. Setting up EPCU’s responsibilities is underway. Projects will be gradually phased in as EPCU develops.

Some examples of the EPCU's planned activities are listed below. It must be emphasized that this is a **tentative** listing.

- **Data support for the EP Abusive Tax Coordinator** – Data analysis will be used to help identify abusive scheme “footprints” and trends. This will assist in defining project or program parameters for projects such as S-Corp ESOPs and IRC 412(i) plans.

- **Minimum funding compliance checks** – This requires analysis of filed returns which have identified a funding deficiency. A compliance letter is generated requesting funding verification or the filing of an excise tax return. Depending upon the response, a correspondence examination or a field examination may be warranted. This activity also assists in the development of improved examination projects.
- **Non-filer compliance check program (TEDS vs. EPMF)** – Data from approved determination letter requests will be used to confirm that the plan sponsor has properly filed annual returns. A compliance letter would be generated asking for a return to be filed, or to send a copy of the filed return. Depending upon the response, a correspondence examination or a field examination may be warranted.
- **EPCRS program resolution compliance checks** – Ensures that agreed-upon resolutions addressed during the EPCRS process were properly completed. Important trend information from EPCRS would also help create and define projects or programs for correspondence or field examinations.

❑ **Increase Retirement Plan Information on IRS.GOV and Restructure by Customer Segment**

The Retirement Plans web page [www.irs.gov/ep](http://www.irs.gov/ep) is an evergrowing font of information for practitioners, plan sponsors and participants.

A priority for the coming year: Converting practitioner info into a format more easily used by employers.

▪ **Background**

There are four primary customer segments relating to retirement plans:

- Plan Practitioner
- Plan Sponsor
- Plan Participant
- Plan Vendor

Content on the Retirement Plans web page [www.irs.gov/ep](http://www.irs.gov/ep) pertains to two customer segments: Plan Practitioner and Plan Sponsor. Historically, the web content has been focused on the Plan Practitioner segment. In FY 02, CE&O introduced the “Retirement Plan Life Cycle” campaign primarily to assist small businesses understand the benefits and responsibilities of retirement plans. This campaign has developed significant content for the Plan Sponsor segment. To assist Plan Sponsors in finding web content, the “Retirement Source for Plan Sponsors/ Employers” index was added in May 2004 to the Retirement Plans web page. Within the Plan Sponsor segment, there are further customer sub-segments (e.g. small business, public and tax-exempt employers).

▪ **Lead EP Office**  
CE&O

▪ **EP Office(s) With “Shared” Interest**

Rulings & Agreements and Examinations support this operating priority through the development of outreach products, content for the Retirement Plans web page and direct contact with customers at customer educational events.

- **Other Non-EP Offices**

DOL and the IRS Small Business/Self-Employed (SB/SE) Operating Division in the development, communication and delivery of educational information to assist small businesses.

- **Prior Strategies/Accomplishments**

The following products were developed in FY 04:

<b>Product</b>	<b>Date(s)</b>
<i>SARSEP: Key Issues and Assistance</i> (Publication 4407)	November 2003*
<i>Retirement News for Employers</i>	May 2004
Check-Up for SEP, SIMPLE and Similar Plans ➤ <i>SIMPLE IRA Plan Checklist</i> (Publication 4284) ➤ <i>SEP Checklist</i> (Publication 4285) ➤ <i>SARSEP Checklist</i> (Publication 4286)	May 2004
<i>EP Determination Letter Resource Guide</i>	August 2004
<i>SIMPLE IRA Plans for Small Businesses</i> (Publication 4334)	September 2004*
<i>SEP Plans for Small Businesses</i> (Publication 4333)	September 2004**
<i>SARSEP Plans for Small Businesses</i> (Publication 4336)	September 2004*
<i>Have You Had Your Check-Up This Year...for SIMPLE IRAs, SEPs and Similar Retirement Plans</i> (Publication 4405)	September 2004*
<i>403(b) and 457 Retirement Plans – with plan feature comparison chart</i> (Publication 4406)	September 2004*
401(k) On-Line Resource Guide	September 2004
EP Examinations Audit Process Guide (On-Line)	September 2004

\* Printed versions available November 2004.

\*\* Printed version not available until February 2005

**Note:** Employees can obtain copies of all outreach products & publications from a CE&O Area Analyst. “Contact Us” information for applicable area analysts can be found on the CE&O Intranet web page. The public can view and/or order their copies by visiting: [www.irs.gov/ep](http://www.irs.gov/ep).

- **FY 2005 Strategies**

A primary objective is identifying current web content written for the Plan Practitioner that should be redrafted for the needs of the Plan Sponsor. Through this process, new web content for the Plan Sponsor will also be identified and scheduled for development. New customer specific Retirement Plans web page information planned includes:

Customer Segment/Sub Segment	Planned Information
Plan Sponsor/Small Businesses	<ul style="list-style-type: none"> <li>• “Check-Up for SIMPLEs, SEPs and Similar Retirement Plans” which connects customers to correction examples for the questions on the SIMPLE IRA Plan, SEP and SARSEP Checklists.</li> <li>• New publication, <i>Payroll Deduction IRA Plans for Small Businesses</i></li> </ul>
Plan Sponsor/Small Businesses	<ul style="list-style-type: none"> <li>• Check-Up for 401(k) Plans <ul style="list-style-type: none"> <li>➢ <i>401(k) Checklist</i></li> <li>➢ Correction examples for each question on the 401(k) Checklist.</li> </ul> </li> <li>• New publication - <i>Have You Had Your Check-Up This Year...for 401(k) Plans</i></li> </ul>
Plan Sponsor/Small Businesses	Small Business Tax Workshop DVD
Plan Sponsor/Small Businesses  Plan Participant with focus on employee as an individual taxpayer (1040 Filer)	New CD-ROM and online guide, <i>IRA Resource Guide</i> – this is a cross divisional product relating to TE/GE, SB/SE and W & I.
Plan Sponsor/Public or Tax-Exempt	New publication, <i>Choosing A Retirement Solution for Public or Tax-Exempt Employers</i>
Plan Sponsor/Public or Tax-Exempt	<ul style="list-style-type: none"> <li>• Check-Up for 403(b) Plans <ul style="list-style-type: none"> <li>➢ <i>403(b) Checklist</i></li> <li>➢ Correction examples for each of the questions on the 403(b) Checklist.</li> </ul> </li> <li>• New Publication - <i>Have You Had Your Check-Up This Year...for 403(b) Plans</i></li> <li>• New publication - <i>403(b) Plans for Public or Tax-Exempt Employers</i></li> </ul>
Plan Sponsor/Public or Tax-Exempt	<ul style="list-style-type: none"> <li>• Check-Up for 457 Plans <ul style="list-style-type: none"> <li>➢ <i>457 Checklist</i></li> <li>➢ Correction examples for each of the questions on the 457 Checklist.</li> </ul> </li> <li>• New publication - <i>Have You Had Your Check-Up This Year...for 457 Plans</i></li> <li>• New publication - <i>457 Plans for Public or Tax-Exempt Employers</i></li> </ul>

## Section II. Program Guidance

### *Customer Education & Outreach*

### *Program Guidance*

Section I of the Workplan discussed the 05 Operating Priorities.

In Section II, the Workplan provides news on specific Programs.

Section II starts with CE&O's plans for the upcoming year.

#### OVERVIEW

Customer Education & Outreach (CE&O) assists EP's external customers, including plan practitioners, sponsors, participants and vendors, understand their tax responsibilities. Customer partnerships with government agencies, practitioner/stakeholders groups and advisory councils of practitioners will continue. CE&O will also coordinate national customer partnerships and work with EP Offices on customer partnership efforts within established Practitioner/Liaison/ Council groups. CE&O will:

- Develop and deliver a tailored customer education program focused on TE/GE's strategic and program priorities, and identified customer's need for educational services. Delivery is made using speeches, panel discussions and conferences, and includes in-person opportunities along with webcast and Public TV programs. **(Direct Contact with Customers)**
- Through customer partnerships, evaluate non-compliance trends and feedback to design/ maintain proactive outreach products such as:
  - Publications;
  - CD-ROMs, and
  - Web content
- Use various outreach communication channels such as:
  - Electronic newsletters – *Employee Plans News* and *Retirement News for Employers*, and
  - The Retirement Plans web page [www.irs.gov/ep](http://www.irs.gov/ep).**(Indirect Contact with Customers)**
- Counter Abusive Tax Avoidance Transactions involving retirement plans - Principal communication channels include the EP Abusive Tax Transactions section on the Retirement Plans web page and the two electronic newsletters.

In accordance with the Operating Priority, **Increase Retirement Plan Information on IRS.GOV and Restructure by Customer Segment**, CE&O will continue to develop web content and products as part of the "Retirement Plan Life Cycle" Campaign. The campaign's objective is to help customers understand the benefits and responsibilities of retirement plans. This is accomplished through both customer education opportunities and outreach products that meet customer-specific needs.

The campaign's goals are:

- ✓ **Benefits:**
  - Increase sponsorship by employers of retirement plans.
  - Increase participation by employees in their employer's sponsored retirement plans.
- ✓ **Responsibilities:**
  - Increase awareness and knowledge by customers of compliance problems that they may encounter at various stages in a retirement plan's life and how best to correct them.

**Check-Ups - providing employers with:**

- Tools
- Tips
- Help and
- Resources

Look for 401(k), 403(b) and 457 plan Check-Ups in FY 05.

In FY 04, a concept called "*Check-Ups*" was introduced. This involves a three-step approach in helping employers properly operate a retirement plan:

(1) **Tools** - use of a checklist highlighting some of the basic requirements for operating a specific type of retirement plan. Each checklist addresses some of the most common problems as seen in the Examinations and Voluntary Compliance programs. Use of the checklist is voluntary and it is not sent back to the IRS. An explanation of each checklist question is posted on [www.irs.gov/ep](http://www.irs.gov/ep)

(2) **Tips/Resources** – for operating a retirement plan

(3) **Help** – through IRS Programs. After reviewing the plan and completing the appropriate checklist, an employer may find an error in the plan's operation. The employer may want to correct the error using one of the correction programs under the Employee Plans Compliance Resolution System (EPCRS) such as the Self Correction Program or Voluntary Correction Program.

**Note:** Further information on "*Check-Up*" is available at [www.irs.gov/ep](http://www.irs.gov/ep).

The initial "Check-Up" products developed related to IRA-based retirement plans - SIMPLE IRA Plan, SEP and SARSEP. In FY 05, additional "Check-Up" products are planned for IRC 401(k), 403(b) and 457 plans.

## SUMMARY OF PERFORMANCE INDICATORS

The following performance indicators will be used in FY 05 for assessing the CE&O programs and activities:

<b>Employee Plans</b>	<b>FY 2004 Actual</b>	<b>FY 2005 Goal</b>
Number of Outreach Efforts	433	365
Customers Reached	145,659	109,500

31 FTEs are planned for CE&O activities in FY 05, which is a reduction from FY 04. This includes resources from both Exam and R&A that support CE&O.

# GOALS and OBJECTIVES

## Customer Satisfaction

### ➤ Customer Education Program (Direct Contact)

Priorities for the Customer Education Program include:

- Partner with **DOL** and **SB/SE** to educate small business customers;
- Work with **IRC 403(b)/457** and **IRC 401(k)** Compliance Planning Groups to increase education to customers;
- Work with **Voluntary Compliance** staff in encouraging plan sponsors to conduct self-audits and correct any “plan mistake”. The “Check-Up” products are some of the many helpful resource tools to assist employers identify “plan mistakes”;
- Support **2005 IRS Nationwide Tax Forums**;
- Maintain **EP Speaker’s Resource Library** (IRS INTRANET) and continue encouraging use by IRS employees of the library’s content in their delivery of customer education;
- Distribute monthly “Employee Plans CE&O Talking Points” to all EP employees, DOL and SB/SE point of contacts for their use at customer educational events or during customer meetings;
- Support EP and TE/GE cross-functional exhibit display booths. The key message for EP exhibiting is “Partnering to Protect Retirement Benefits”;
- Identify new customer education opportunities involving alternate delivery options such as webcast and Public TV programs, and
  - Co-sponsor **EP Benefits Conferences** in accordance with established “Best Practices”. These conferences include the following:

What is CE&O doing to improve Customer Satisfaction?

Efforts include:

- Working with Voluntary Compliance, SB/SE and DOL among others
- Maintaining the EP Speaker’s Resource Library
- Providing support at exhibiting events.

#### **Spring EP Benefits Conference Season:**

- Great Lakes Benefits Conference
- Mid-Atlantic Benefits Conference
- Northeast Benefits Conference
- Cincinnati Employee Benefits Conference

#### **Fall/Winter EP Benefits Conference Season:**

- Central & Mountain States Benefits Conference
- SWBA/IRS Employee Benefits Conference
- Los Angeles Benefits Conference

### ➤ Outreach (Indirect Contact)

CE&O will coordinate outreach activities to foster customer partnerships, increase customer education and use existing resources to develop and deliver outreach products. Outreach products include the following:

- **Employee Plans News** – Geared toward plan practitioners with four planned seasonal editions plus periodic special editions and News Flashes, as warranted.
- **Retirement News for Employers** – Designed for employers and business owners with four planned seasonal editions.

**Note:** Free subscriptions for both the *Employee Plans News* and *Retirement News for Employers* are available at [www.irs.gov/ep](http://www.irs.gov/ep).

- **Forms/Publications** – Existing forms/publications will be maintained. Efforts will be undertaken to assess external customers' needs on any necessary changes to existing forms/publications. See *Operating Priority* for list of planned new publications.
- **Intranet/Internet** – In coordination with other IRS offices, timely develop and post information to the Retirement Plans web page and IRS INTRANET websites. Marketing of educational information available on the Retirement Plans web page will continue. See *Operating Priority* for list of planned new Internet content plus maintenance of the following on-line resource guides:
  - ✓ Examinations Audit Process Guide
  - ✓ Determinations Resource Guide
- **Products (Electronic) Development** - Further marketing will occur on the Retirement Plan Correction Programs CD-ROM. Efforts will focus on developing content for the following products:
  - ✓ Small Business Tax Workshop DVD
  - ✓ Small Business Resource Guide 2005 CD-ROM
  - ✓ IRA Resource Guide CD-ROM

# ***Rulings & Agreements Program Guidance***

## **OVERVIEW**

Rulings & Agreements (R&A) will focus on ensuring plan sponsors' compliance by offering up-front programs to achieve the following objectives:

- Issuing timely and accurate determination letters;
- Providing easily accessible, consistent and equitable voluntary compliance programs;
- Issuing timely and accurate opinion letters and private letter & actuarial rulings, and
- Publishing technical and procedural guidance for both internal and external stakeholders.

What does Rulings & Agreements have in store for its customers in FY 05?

Read these pages and discover for yourself.

## **DETERMINATION PROGRAM**

In April of 2004, R&A began planning the use of a staggered remedial amendment period. The staggered approach was selected as the best option of the "White Paper" process. This will minimize the peaks and valleys experienced in years past by using distinct tracks for individually designed plans and for pre-approved documents. This staggered approach will also eliminate the need to shift employee resources between programs. Guidance documents are being prepared to initiate the process.

Determination personnel are finishing the large volume of receipts - approximately 140,000 applications during FY 03-04 - from the GUST remedial amendment period. As of August 2004, 41,000 cases were in inventory, including 32,500 cases in technical screening. Approximately 87% of these applications are Forms 5307.

The backlog in screening should be completed during the second quarter of FY 05. This will allow for the opening of the EGTRRA remedial amendment period on February 1, 2005. Applications for M&P and Volume Submitter defined contribution specimen plans may be submitted for review between February 1, 2005 and January 31, 2006.

FY 05 will see some big changes for the Determination program:

- A staggered approach to the remedial amendment period
- The merger of the M&P and Volume Submitter programs

There's even more - look and see.

In FY 05, the migration of the separate M&P and Volume Submitter programs into a combined pre-approved program will begin. Determinations will assume administrative responsibility by having all applications for M&P and Volume Submitter plans processed through the Cincinnati Submission Processing Center. Determination personnel will continue working Volume Submitter plans and begin reviewing M&P plans. Tax law specialists assigned to Technical may offer assistance in the review of M&P plans, as needed.

### **Voluntary Compliance Assistance**

Determinations will provide assistance to Voluntary Compliance upon completion of the backlog of GUST applications. Completion of a significant portion of the GUST inventory is projected during the second quarter of FY 05. Voluntary Compliance personnel will provide training, as needed, to make this transition for Determination specialists.

## Technical Screening

Determinations has begun an innovative way of dealing with technical screening issues. In the past, all technical screening guidance was issued by Cincinnati personnel. A Technical Screening Roundtable has now been established with Determination personnel from around the country. This group will be responsible for issuing guidance.

## Training

Determinations will hold their inaugural joint CPE session the week of October 19, 2004 in Indianapolis, Indiana. Key topics scheduled are:

- EGTRRA,
- Determination Processing,
- Terminations,
- EPCRS and
- New Cash Balance Plans.

EGTRRA, EPCRS and Terminations: Just some of the year's CPE topics this October.

This joint CPE will promote team-building within the newly realigned Determinations function. Technical Guidance will offer Centra sessions to supplement the CPE process.

Determinations will continue offering Phase II and Phase III training to newly promoted Grade 12 and Grade 13 specialists.

## Issue Identification Resolution

Determinations will continue fostering involvement of the national workforce by creating teams to work on solutions of various identified problems. This is an expansion of a project that began in FY 04 with such topics as specialization and customer service.

## Quality Assurance

The Determinations Quality Assurance Staff (QAS) will continue analyzing data collected under TEQMS to discover opportunities for improvement. Specifically, QAS will work with Determinations in an ongoing effort to improve the quality of determination letters. The following standards are again targeted for improvement:

- Issuing Correct Determination Letters
- Properly Determining the Qualified Status of Plans

Actions to improve the letters include encouraging the 100% peer review of all merit closure determination letters, managerial review of regular determination letters and direct involvement of reviewers with the individual groups. QAS will also perform saturation reviews on each of the 12 determination groups in an attempt to improve quality. QAS has also begun a pilot program on TEQMS cases that provides feedback to individual specialists with a sanitized copy to the manager.

In addition to TEQMS reports, QAS will continue issuing:

- Quality Assurance Bulletins on topics of interest;
- Recurring Issue Reports with language comparisons, and
- Technical and Procedural Alerts, as necessary.

QAS will continue conducting "Reviewer Visitations" for each of the Determination groups. During these visits, QAS reviewers will provide direct feedback and guidance, in addition to conducting workshops on various topics.

The “Ask the Reviewer” button on the website will be continued as a tool for Determinations Specialists to receive answers to their questions.

All determination closing agreement cases are now worked through the Closing Agreement Coordinator in QAS instead of using the audit CAP coordinators in the Areas. The Closing Agreement Coordinator will continue working with the VC and CAP coordinators.

### **Planning Assumptions**

The following assumptions were used in planning the Determination Letter program time in FY 05:

- Beginning inventory is 38,000;
- Screening of the GUST inventory will be completed by the second quarter;
- An estimated 32,000 determination receipts, and
- TEDS will close 10%-20% of all Forms 5307 received.

## **GOALS and OBJECTIVES**

### **Business Results (Quality)**

*Timeliness (cycle time)* - The computation of cycle time is based on a 12-month “rolling average”. **While various cycle time/timeliness objectives have been established, it should be emphasized that cases should not be closed prematurely simply to adhere to a cycle time objective.**

- *Merit Closures* - the objective is 185 days from the control date to the closing of the application (EDS table 6b.1).
- *Cases worked at the group level (status 75 or 52 to closing)* - this includes all non-merit closures (disposal codes 00, 01, 02), excluding those applications that were transferred to other Area Offices (EDS table 9.1). The national objective is 190 days.
- *All Cases* - the national objective for all cases closed (merit closures and cases worked at the group level) with a determination letter issued is 183 days (EDS table 8e.1).

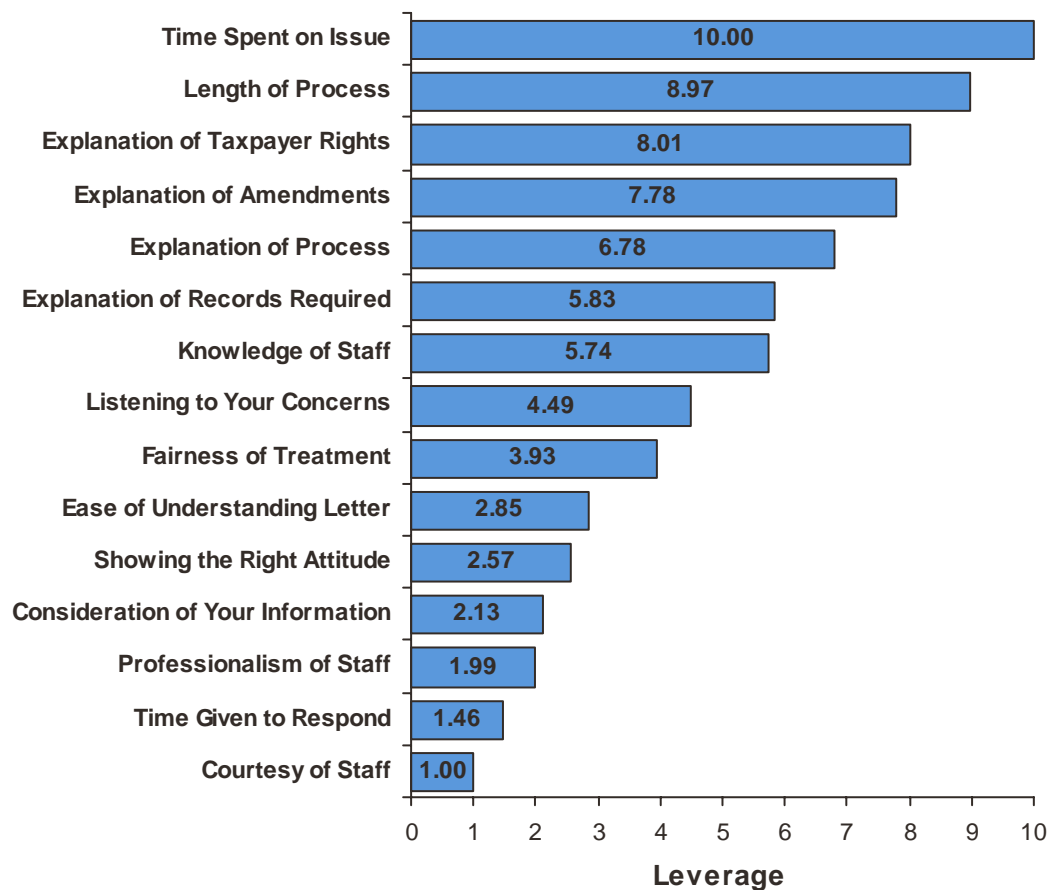
### **Business Results (Quantity)**

Determination cases closed will be used as the performance indicator. The primary focus is finishing the build-up of cases from the GUST remedial amendment period for pre-approved plans. The national objective is 45,900 cases.

### **Customer Satisfaction**

The August 2004 Customer Satisfaction ratings (the latest data available) for determinations (cases closed from October 2003 – March 2004) continue to be quite favorable. 71% of the respondents indicated they were satisfied with service provided, while only 7% were dissatisfied. The results also provide information on “improvement priorities” for Determinations as shown by the following chart. The higher scores are those areas where the customer is less satisfied and/or the item is very important.

## Improvement Priorities for Determination Customers



The “*time spent on issue*” category has passed the “*length of process*” as the prime improvement opportunity. As previously discussed, QAS will work with EP Determinations to continue the use of 100% peer review of determination letters, managerial review of determination letters and direct reviewer involvement with each Determination group. In addition, Determinations continues to offer a power-of-attorney numbering system for interested practitioners. This system will promote consistent specialist requests for plan language changes, thus decreasing the time practitioners must spend addressing these requests.

Customer concerns about “*length of process*” should improve as “aged” pre-approved GUST cases are closed.

## Monitoring – Summary of Performance Measures

Performance Measure	FY2004 Actual	FY2005 Goal
Timeliness (merit closures)	152	85
Timeliness (cases worked at group level)	210	190
Timeliness (all cases)	208	183
Customer Satisfaction <sup>1</sup>		
✓ Satisfied Customers (rating of a 6 or 7)	71%	72%
✓ Dissatisfied Customers (rating of a 1, 2 or 3)	7%	6%
Determination Quality (as of 6/04)	75.2%	76%
Determination Cases Closed	57,950	45,900

<sup>1</sup> The FY 2004 column is based on the August 2004 report that covers the six-month period ending March 2004.

## THE VOLUNTARY CORRECTION PROGRAM (UNDER EPCRS)

### Overview

The Employee Plans Compliance Resolution System (EPCRS) provides a comprehensive system of correction programs that permit plan sponsors to correct failures in qualified plans, tax sheltered annuities, Simplified Employee Pension Plans and SIMPLE Individual Retirement Accounts, thereby providing plan participants with retirement benefits on a tax-favored basis. EPCRS has three components:

Rev. Proc. 2003-44 is the centerpiece of EPCRS.

VC will issue a new procedure this year updating and improving the three EPCRS components:

- SCP
- VCP and
- Audit CAP

- Self-Correction Program (SCP);
- Voluntary Correction Program (VCP), and
- Audit Closing Agreement Program (Audit CAP).

EPCRS is described in detail in Rev. Proc. 2003-44, which can be found on the IRS Retirement Plans web page ([www.irs.gov/ep](http://www.irs.gov/ep)). Audit CAP and SCP are applied on cases under examination. The Voluntary Correction Program is administered in the Voluntary Compliance (VC) component of Rulings and Agreements.

### FY 04 Workload

VC received approximately 2,000 program submissions during FY 04. This represents nearly a 100% increase in receipts from FY 03 (1,011). VC's workload is also impacted by determination letter applications that are related to the program submissions. The applications total approximately 50% of VC program submissions. VC is responding to this inventory challenge by taking several steps to improve case processing:

- Improving case processing procedures;
- Simplifying the compliance statement issued for the plan; and
- Streamlining case review procedures.

## FY 05 Workload

Projected receipts for FY 05 are 1,200, with approximately 585 related determination applications. This projection is lower than FY 04 receipts due to an expected decrease in non-amender cases. During FY 05, VC will continue focusing on more efficient and timely processing of cases and will assist Examinations with consistent treatment of EPCRS cases. In support of these goals, VC will:

- Begin new streamlined case processing procedures;
- Use resources within R&A, specifically Technical and Determinations, to assist in reducing open case inventory;
- Provide correction guidance on the Intranet page, and
- Update the EPCRS revenue procedure for continued refinements and improvements. Simplification of the revenue procedure will remain the focus of any changes.

The VC Council, established as a link between VC and other parts of the organization, will continue meeting as needed. The Council is responsible for promoting cross-program consistency throughout all of EP through the use of high-level guidance. Examples of issues addressed by the Council include:

- (1) Reexamining the sanction structure for examination cases worked under EPCRS,
- (2) Development of the EPCRS database, and
- (3) Development of the EPCRS revenue procedure.

### Getting the word out on EPCRS -

- CD-ROMs
- The Internet and
- A presence at benefits exhibits.

VC continues making its benefits known to the EP world.

VC will update and continue marketing the correction program's CD-ROM (Publication 4050). The CD contains several tools for navigating through the many available features of EPCRS such as:

- Frequently asked questions about available programs;
- Links to useful IRS forms and publications; and
- Information about the DOL and PBGC voluntary correction programs.

VC will continue enhancing the "Corrections" page on [www.irs.gov/ep](http://www.irs.gov/ep) to help educate customers about the responsibilities of plan sponsorship, proper maintenance of plans and correction of plan failures through EP's correction programs.

## PERFORMANCE MEASURE

The number of voluntary compliance cases closed will be used as an indicator of performance.

Performance Measure	FY2004 Actual	FY2005 Goal
Voluntary Compliance Cases Closed	1,131	1,200
Determination Cases Closed	426	600

## OPINION LETTERS/RULINGS

What are R&A's Technical and Actuarial groups planning for this year?

Read to see what the focus areas are.

The Technical and Actuarial groups are responsible for:

- Issuing private letter rulings;
- Issuing responses to funding waiver requests;
- Issuing general information letters;
- Assisting agents in all areas by issuing technical advice on determination/examination cases;
- Providing technical quality assurance;
- Providing support for CE&O regarding questions and items for the EP website;
- Providing assistance to CAS with R-mail inquiries, and
- Assisting Determinations with M&P reviews, as needed.

Technical also provides actuarial support. Each Area Office has access to at least one actuary for technical guidance on complex examination and determination issues.

Specific areas of focus in FY 05 are:

- *Pre-Approved Plan Program* – In conjunction with Determinations, assist with the processing of M&P and Volume Submitter defined contribution applications.
- *Private Letter Rulings and Technical Advice* – Continue improving the treatment of private letter rulings and technical advice cases. Reduce the number of overage cases and the cycle time for cases.
- *Assistance to Voluntary Compliance* – Provide continuing support to Voluntary Compliance by assisting with their case load. During FY 04, approximately 200 cases were worked for VC. Ongoing assistance is expected for FY 05.

## PERFORMANCE MEASURE

Performance Measure	FY2004 Actual	FY2005 Goal
Technical Activities Closed	3,627	2,500

Technical and Actuarial handle PLRs, Tech Advice requests, Congressional requests and more.

The workload will consist primarily of private letter rulings and technical advice cases, as well as general correspondence, Congressionals, etc. Technical and Actuarial will assist Determinations in the handling of M&P and Volume Submitter plans.

During FY 04, there were 101 requests for funding waivers. For FY 05, this figure is expected to remain stable or decrease because of the relief provided by the Pension Funding Equity Act of 2004.

## TECHNICAL AND PROCEDURAL GUIDANCE

Technical guidance is an integral part of an agent's/tax law specialist's tools for applying pension law and keeping abreast of frequent changes. The interpretation of law and development of Service procedures as they apply to the Determinations and Examinations programs is the optimal way to assure consistency. The availability of timely guidance not only promotes efficiency but also facilitates professionalism that enhances both employee satisfaction as well as customer satisfaction.

What does the staff in Technical and Procedural Guidance have in store this coming year?

One area of import is issuing timely and relevant guidance on emerging abusive tax transactions.

The objective of published guidance is providing assistance in procedural matters and providing timely and current technical guidance consistent with the annual Guidance Plan that is established in conjunction with the Office of Chief Counsel of the Service and the Office of Tax Policy of the Department of the Treasury. While a specific instance of published guidance generally is directed at one or more specific issues found in the Determinations or Examinations program, other functions of the Service, such as the Office of the Associate Chief Counsel (Financial Institutions and Products) that have jurisdiction over different aspects of tax law that impact on pension law also develop and/or implement published guidance.

A primary focus is the issuance of timely guidance on emerging abusive tax avoidance transactions. The 2004-2005 Treasury/IRS Priority Guidance Plan includes several items of guidance involving tax avoidance issues, including abuses of nondiscrimination requirements to favor highly compensated employees or owners, finalization of regulations dealing with inflated valuations of life insurance contracts in defined benefit plans resulting in excessive tax deductions, guidance on IRA abuses, and continued guidance on potential abuses involving ESOP's that purchase S-Corps. In addition to publishing routine and as needed procedural guidance, it is anticipated that during FY 05 final Income Tax Regulations will be issued under:

- Section 401(k) and (m) on cash or deferred arrangements and matching contributions;
- Section 411(c) on the allocation of accrued benefits, and
- Section 411(d)(6) on the elimination of certain benefits for defined benefit plans.

In addition, it is anticipated that technical guidance in the form of revenue rulings, revenue procedures and notices will be issued for section 401(b) and the staggered remedial amendment period, automatic rollovers under section 401(a)(31), section 402A on Roth 401(k) elective contributions and section 409(p) issues.

## PERFORMANCE MEASURE

Performance Measure	FY2004 Actual	FY2005 Goal
Guidance Documents Published	58	50

# Examination Program Guidance

Last but not least, a look at what the Exam program has planned for this year.

There are new tools, new programs and a new director.

Read on to see what's in store for EP Exam in FY05.

## OVERVIEW

Examinations will identify and correct non-compliance by meeting the following strategic goals:

- Conduct focused, efficient examinations;
- Resolve issues at the lowest possible level using appropriate resolution mechanisms;
- Ensure consistency and fairness in application of law;
- Maintain a high level of Customer Satisfaction;
- Coordinate with other TE/GE functions, other IRS functions, and other Federal Agencies to identify and resolve emerging areas of non-compliance;
- Improve the overall quality of examinations based on both TEQMS and Customer Satisfaction results, and
- Determine the compliance level of those customers involved with identified potentially abusive tax avoidance transactions.

## GOALS and OBJECTIVES

### Business results (Quality)

*Timeliness (cycle time)* - Cycle time is computed based on a 12-month "rolling average." Cycle time is measured from the date the case is placed in AIMS status code 12 (assigned – taxpayer contacted) to the date it is closed (status code 90).

The national objective is 190 days. However, this goal may be revisited during the year depending on the results from the Examination Reengineering study. Individual Area Office objectives will also be established.

**NOTE: Managers and employees are encouraged to pursue potential issues and to resolve their cases in an appropriate manner. This includes the pursuit of closing agreements when appropriate. Managers and employees should not close a case prematurely, or with less than the proper level of scrutiny simply to meet a cycle time objective.**

AIMS Table 61 will be used to monitor cycle time accomplishments.

*Examination Quality* – This score is determined by the results of the TEQMS review process. The quality rate for the first 9 months of FY 04 was 84%. **This is based on the number of cases reviewed as of July 30, 2004. Scores will continue changing until all sample cases for the period are reviewed.** The FY 05 goal is maintaining the overall quality of the examinations, while achieving an 87% quality rate. Area Office objectives will be established. Efforts will be directed toward the development and execution of an action plan to improve two examination audit standards:

- Timeliness, and
- Workpapers and reports.

TEQMS results will be published quarterly in monitoring reports from the TEQMS Review Staff. Managers are encouraged to discuss these reports with their employees. If a manager would like to have a reviewer participate in these discussions they should contact the Manager, Special Review.

### Business Results (Quantity)

- *Performance Indicator* – This will be the number of returns closed. The FY 05 goal is 11,000 returns. AIMS Table 20 will be used to monitor this measure.

The following compliance programs will continue in FY 05:

Several Compliance programs continue in FY05.

Among them:

- Abusive Tax Transactions;
- Risk Assessment exams; and
- A Focused Exam program.

- *Abusive Tax Avoidance Transactions* – Exam will continue expanding its examination of potentially abusive tax avoidance transactions. Currently there are two projects underway that will continue into FY 05: IRC 412(i) plans and S-Corp. ESOPs. Additionally, agents should be alert to potential new ATATs. If an agent discovers an issue that should be brought to the attention of management, refer to the following web page for instructions. Go to [www.irs.gov/ep](http://www.irs.gov/ep) and click on “EP Abusive Tax Transaction” under “More Topics”.
- *IRC 403(b)/457 Plans* – New examination selections will be made taking into consideration the changes made in EGTTRA. The IRC 403(b) IRM will be updated for EGTTRA. An IRM Audit Guide for IRC 457 plans is being developed and will be published in FY 2005.

Because FSLG is examining school districts, Examination personnel should continue to coordinate with them on these audits. This will ensure that cases selected by either function are not being examined currently or have not recently been examined.

- *IRC 401(k) Plans* – The baseline cases and the Automated Workpapers Project Cases have all been assigned and most have been examined. In FY 05, the examinations should be concluded, the analysis done, and any recommended follow-up actions started.
- *Multi-Employer Plans* – New cases will be selected based on data research which has identified three industries that have been historically noncompliant. Additional cases may be selected from one other industry to determine that industry’s compliance level. Program findings are generating baseline data, which will be used in developing long-term compliance strategies.
- *EPTA* – Area Offices will become fully involved in the EPTA program during FY 05. Area managers will maintain responsibility for their individual EPTA cases, coordination and issue management. Advanced EPTA training will be provided to all EPTA agents this year. EP&R will provide program oversight and will coordinate with LMSB, EO, and others in the selection of EPTA cases.
- *Focused Examination Program* - The pilot program involving four groups from different Areas will continue. An analysis will be done on whether the limited scope approach is an efficient manner of performing examinations and/or will be an effective means of improving compliance.

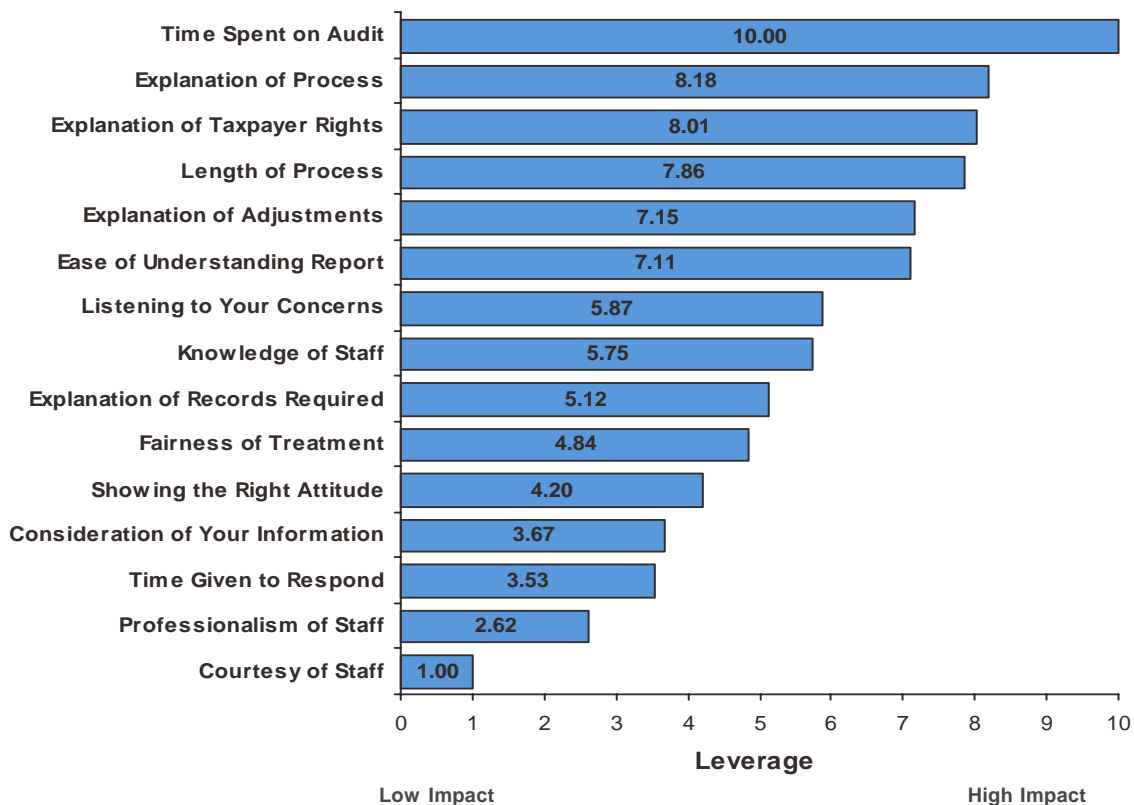
- *Plan Based Compliance Project* – A compliance study will be started using plan types – as opposed to employer types as in the regular Risk Assessment program – as the driver for selection of examinations. The five major plan types will be segmented to estimate compliance in the respective plan types, as well as overall customer compliance. It is anticipated that 2,400 returns will be selected for examination in FY 05. All Areas will be involved.

## Customer Satisfaction

The August 2004 Customer Satisfaction ratings (the latest available data) for examinations (cases closed from October 2003 through March 2004) remain quite favorable. Of the respondents, 72% indicated they were satisfied with the service provided, while only 7% were dissatisfied. The rest were “neutral” in the rating of the quality of service provided. The overall rating was a score of 5.85 out of a possible score of 7.0.

The results also provide information on “improvement opportunities” for Examinations as shown by the following chart. The higher scores are those areas where the customer is less satisfied and/or the item is very important to them.

## Improvement Priorities for Examination Customers



## Customer Satisfaction Initiatives

Five Area Offices have ongoing projects to increase customer satisfaction. Among the items underway are the development of a special Publication 1 explaining the audit process to EP customers and a web-based examination audit guide for use by external customers. Additional projects include training classes for agents, partnerships with practitioners, streamlining the discrepancy adjustment and Form 5330 examination processes.

The goal for FY 05 is to have 72% or greater satisfied customers, and 7% or fewer dissatisfied customers.

## Summary of Performance Measures

The following performance indicators will be used to assess the effectiveness of examination programs and activities:

<b>Performance Measures</b>	<b>FY2004 Actual</b>	<b>FY2005 Goal</b>
Timeliness (cycle time)	186	190
Examination quality (as of 6/04)	84%	87%
Examination cases closed	7,910	11,000
Customer Satisfaction <sup>1</sup>		
Overall Customer Satisfaction	5.85	5.8
Satisfied Customers (rating of a 6 or 7)	72%	72%
Dissatisfied Customers (rating of a 1,2 or 3)	7%	7%

<sup>1</sup> The FY 2004 column is based on the August 2004 report that covers the six-month period ending March 2004.

## Training

As a result of Survey 2003 feedback and efforts aimed at improving employee satisfaction, an EP Examination Training Advisory Council (TAC) was established. This Council develops training proposals based on input from bargaining unit employees. TAC continues working with Learning & Education on revising the Examination Phase training.

The phases of Exam training have been redesigned to concentrate on fewer topics. For example, the new Phase IV covers only IRC 401(k) and related topics. Later in Phase V, DB plans and related topics are covered. In the past, these two subjects and related issues were covered together in a three-week course.

TAC is developing a website which should be operational in the first quarter of FY 05. It will contain contact information, a training timeline, a description of Phase training courses and any training-related memorandums issued by TAC.

A similar Advisory Council has been established to oversee CPE development. CPE is tentatively scheduled to be held during April-June 2005. However, due to budget restraints, we will be unable to conduct centralized Area-wide training.

Additional training activities planned for FY05 include:

- TE/GE Reporting and Electronic Examination System (TREES) train-the-trainer classes will be held in the fourth quarter of FY 05;
- As funding permits, continued specialized training for those agents conducting MAP, 403(b), 401(k), and EPTA examinations; and,
- Survey 2004 issues will be addressed and corrective action enacted as appropriate. Elevated issues will be addressed under existing guidelines.

### **Additional Examination Initiatives**

- Conduct examinations of new automatic selections, including referrals, claims, reversions, and determination conversions;
- Conduct new examinations supporting EO and LMSB, and conduct EP Team Audits;
- Conduct examinations of new pension underfunding cases identified by the RICS database;
- Continuation of non-return examinations of SARSEP plans and start examinations of SIMPLE IRA plans;
- Continue assisting personnel in the development of TREES; and,
- Provide resources to support and augment the CE&O programs.